REMARKS

Claims 11, 13-19, 23-29, 31 and 32 are pending in the application. In the outstanding Office Action mailed 6 January 2009, the Examiner kindly provided a detailed response to arguments most recently made of record by the applicants, and applicants extend appreciation to the Examiner for assisting with providing clear and concise identification of the issues which the Examiner now finds to be a basis for rejecting the claims. Applicants also thank the Examiner for noting the objection to claim 12, and that claim is cancelled herein. Further amendment is presented to address the rejections under Sections 101 and 103. For reasons now provided, the applicants traverse the rejections and submit that with the present amendment there is even further basis to remove the rejections and allow the application.

With regard to the rejection under Section 101, the Examiner has provided an interpretation of the subject matter (formerly in claim 12) most recently placed in claims 11 and 29 concerning a connection to a communication network or a connection providing direct access to the real-time communication level of a real-time Ethernet. The amendment was made because the prior final office action made of record an interpretation of "web server" as meaning a computer program instead of a computer that runs a computer program. Rather than argue over the intended meaning, applicants proposed amendment to each of the independent claims in order to overcome this rejection. However, the thought that an automation system, or a programmable logic controller is no more than software is without support as one cannot enable such functionality without hardware. Consequently, the prior amendment was submitted to provide further basis to overcome the rejection under Section 101. However, the Examiner has now taken the position that although a web server may comprise a connection to a communication network, this might not at all involve hardware. Somehow the Examiner has concluded that a "logical" connection may be effected without hardware. Consequently the Examiner is requested to either provide support via an example as to how one might effect even a logical connection between a server and a network without a physical connection. It is submitted that the rejection is in error and should be removed.

However, to further define subject matter that more surely satisfies the requirements of Section 101, claims 11 and 29 are further amended to expressly recite that the server is enabled

to control at least one automation device via connection through the expansion module to one or more automation devices. The at least one automation device is taken from the group consisting of a computer numerical control device, a valve and a drive. Based on the above argument and the amendment to claims 11 and 29 the claims clearly satisfy the requirements of Section 101. Removal of the rejection is requested.

With regard to the continued rejection of the claims under Section 103 based on the combination of Swales (U.S. 6,321,272) in view of Lindner (U.S. 6,640,140), the Office Action has acknowledged the applicants' contention that claims 11 and 29 require communication between software modules as well as communication between software modules and components outside the web server. However, the rejection concludes that (although the feature is not shown in the prior art) it would be obvious that there would be communication between software modules using the Internet Protocol. Applicants respectfully disagree. In the absence of a reference disclosing such communication between such software modules of a web server using the Internet Protocol, it is not possible to provide a prima facie case of obviousness. The claimed subject matter must be found somewhere in the prior art and there must be a motivation to combine the references in order to render the combination obvious. All of the claimed elements must be found in the prior art and the rejection cannot be a hindsight reconstruction. For these reasons the argument presented at pages 4 and 5 of the office action is traversed and the claims should be found non-obvious.

If the Examiner disagrees with the above argument, the Examiner is requested to provide full and complete support for a prima facie case of obviousness.

Applicants also request the Examiner to reconsider his position regarding the interpretation of the PLC1 (10a) of Lindner as a web server. As noted, claim 11 calls for a web server comprising software modules and an expansion module which provides the functions of a programmable logic controller. The rejection now contends it is permissible to redefine the PLC1 (10a) as a server and a programmable logic controller, while there does not appear to be any support for this interpretation. If the Examiner does not withdraw the rejection based on the above arguments, then the Examiner is requested to provide detailed support for this contention as well. Applicants urge that the argument at page 3 of the Office Action is flawed because there is no basis to establish that it would be obvious to integrate the function of a PLC within a web server. Again, more is required to establish a prima facie case of obviousness.

The Examiner has relied upon Lindner to compensate for one deficiency of Swales, i.e., an expansion module which provides the functions of a PLC. As previously urged, Swales may disclose a PLC, but does not disclose a web server comprising an expansion module which provides the functions of a PLC. With respect to Lindner, that reference also discloses a PLC but does not disclose a web server comprising an expansion module which provides the functions of a PLC. There is no basis to combine the references other than applicants' teachings. Based on the above distinctions the claims are allowable over the prior art.

Conclusion

For all of the above reasons all of the rejections should be removed and the application should be passed to allowance. The Commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified in 37 C.F.R. §§ 1.16 (c), 1.17(a)(1) and 1.20(d), or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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